

BLM Ethics Office

Partnerships: Landscapes in Relationships



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Markci D. Metcalf, Deputy Ethics
Counselor, BLM

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DOI bureaus have a number of authorities that create avenues for partnerships or partnership-type relationships:

*BLM specifics...



Authority to Operate with Partners

- State Regulatory and Law Enforcement Officials (43 U.S.C. § 1733(d))
- Investigations, Studies and Experiments (43 U.S.C. § 1737(a))
 - Experimental Stewardship Program (ESP) for Grazing Permittees and Leases (43 U.S.C. § 1908)
- Stewardship Contracting for Tree Thinning and Other Services (16 U.S.C.A. § 2104 note)

Authority to Enter Into Cooperative Agreements

- Watershed Restoration and Enhancement (16 U.S.C. 1011(a))
- Management, Protection, Development, and Sale of Public Lands (43 U.S.C. § 1737(b))
- Fire Protection (42 U.S.C. § 1856)
- Range Improvements (43 U.S.C. 315 (c))
- Challenge Cost Share Authority (31 U.S.C. 6305 note)

This listing is not exhaustive.

*Taken from Partnership Legal Primer, Department of the Interior, Office of the Solicitor, 1st Edition, September 2004

[Full text of the DOI Partnership Legal Primer \(307 KB\)](#)

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DOI bureaus have a number of authorities that create avenues for partnerships or partnership-type relationships: (Continued)

*NPS specifics...



Authority to Operate with Partners

- Authority to take actions that Promote and Regulate Units of the National Park System (16 U.S.C. § 1)
- Agreements to the Transfer of Appropriate Funds to Carry out NPS Programs (16 U.S.C. 1(g))
- Cost Share Agreements with Partners (16 U.S.C. § 1(f))
- Agreements that Allow Exhibits and Interpretive Demonstrations in Parks [16 U.S.C. § 10-2(g)]
- Promotion of Tourism in the National Park Service (16 U.S.C. § 18a)
- Agreements to Operate and Develop and Maintain Portions of National Trails [16 U.S.C. § 1246(h)(1)]
- Leases of Buildings and Associated Property [16 U.S.C. § 1a-2k]
- National Trails Cooperative Agreement [16 U.S.C. § 1246(h)(1)]
- Authority to Enter Into Cooperative Agreements Promoting the National Underground Railroad Network to Freedom [16 U.S.C. § 4691-1c]

The listing is not exhaustive.

*Taken from Partnership Legal Primer, Department of the Interior, Office of the Solicitor, 1st Edition, September 2004

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DOI bureaus have a number of authorities that create avenues for partnerships or partnership-type relationships: (Continued)

*FWS specifics...



Authority to Operate with Partners...

- Partnerships for Fish and Wildlife Purposes (16 U.S.C. § 661)
- Partnerships to Benefit Fish and Wildlife Resources (16 U.S.C. § 742a)
- Partnerships for Wildlife Program (16 U.S.C. § 3741)
- Cooperation with States for Threatened and Endangered Species (16 U.S.C. § 1531)
- Cooperation in the Exchange and Use of Refuge System Lands (16 U.S.C. § 668dd)
- Agreements and Assistance for Research and Development of Aquaculture (16 U.S.C. § 2801-2810)
- Cooperation with State and Local Governments Regarding Migratory Birds (16 U.S.C. § 715)
- Cooperation with the National Fish and Wildlife Foundation (16 U.S.C. § 3701)
- Cooperation with States on Non-game Species (16 U.S.C. § 2901)
- Cooperation with States for Law Enforcement (16 U.S.C. § 7421)
- Fish and Wildlife Resources Research and Training Cooperative Agreements (16 U.S.C. § 753a)
- Recreational Uses on Refuges (16 U.S.C. § 460k)

This listing is not exhaustive.

*Taken from Partnership Legal Primer, Department of the Interior, Office of the Solicitor, 1st Edition, September 2004

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Why is it important to be familiar with authorities for your specific bureau? (2 minutes)



Efficiency of Operations.

[Why re-invent the wheel?]

[Develop a pattern of viable, healthy protocols for the formation of partnerships.]

["Lessons Learned." Proficient.]

Objectify the expectations.

[Capture bureau and partner objectives.]

[Form a long-lasting relationship... who's on first and who's on second?]



Understand the parameters of the authority.

[Are there limits?]

[Does this authority accomplish what I seek to accomplish?]

[Does another authority "fit" more appropriately than the one I'm considering?]



Purpose: The greater your understanding, the greater likelihood you are to be successful in forming (and reforming) long-lasting relationship, and the less likely there will be ethical hiccups.

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Ethics Speak

Be clear about what authority you are using to form the partnership.

Ethics Speak “Reach Out” - Forming a cogent partnership relationship may require that you obtain input from a number of units within DOI/ or your organization: Consider-

➤ Office of the Solicitor/General Counsel- Can provide advice and counsel regarding the appropriateness of the instrument selected to form the partnership or relationship. **Example:**

Grant, Cooperative Agreement, Contract, or MOU?

Is the Government going to have limited input? Grant

Is the Government going to be a major player? Cooperative Agreement/MOU

Is the Government going to acquire goods or services?

Contract/Procurement

➤ Budget Office - Provide guidance on the expenditure of appropriated funds. **Example:**

Can the bureau use appropriated funds to cover the transportation costs for partners?

Does the funding have to be spent in in line with the appropriations language? Are there exceptions?

Can appropriated funds be used to cover the cost of partner's lunch?



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➤ **Ethics Office** - Provide insight and guidance as well on a variety of questions. **Examples:**

Transportation Benefits:

Can a partner give an employee a gas card to purchase gas for his or her personal vehicle? **No**

Does transportation constitute a gift? **Yes**

Can a partner give an employee a Christmas gift? **Depends**

Ethics rules apply to partners, right?

No

Conflict of Interest:

Can an employee serve on the board of a partner organization in his or her official capacity?

Depends

If an employee serves on the board of a partner organization in his or her personal capacity does he or she have to avoid taking official action on matters in which the partner has a interest? **Yes**

Can a manager absolve an employee of an conflict of interest? **No**

Are there instances where supervising a subordinate equates to committing a conflict of interest? **Yes**



**Upcoming...14
General Ethical
Principles**



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14 General Ethical Principles

(1) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws and ethical principles above private gain.

(2) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(3) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.



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(4) An employee shall not, except as permitted by subpart B of this part, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(5) Employees shall put forth honest effort in the performance of their duties.

(6) Employees shall not knowingly make unauthorized commitments or promises of any kind purporting to bind the government.

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(7) Employees shall not use public office for private gain.

(8) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(9) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

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(10) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(11) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(12) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.

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(13) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(14) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards set forth in this part. Whether particular circumstances create an appearance that the law or these standards have been violated shall be determined from the perspective of a reasonable person with knowledge of the relevant facts.



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What are some of the challenges/problem spots associated with ethics and partnerships?
(2 minutes)

Gifts

Conflicting Financial Interests

Seeking Other Employment

Service on Boards

“We have always done it this way.”

“Does the partner understand the rules?”



Representation

Misuse of Position

Post-Employment

“Why change?”

“Get it done at any cost.”

“A difference of opinion”

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What is a gift? The term “gift” includes the following:
(See 5 CFR 2635.203(b)):

- Gratuity (freebie)
- Favor
- Discount
- Entertainment (e.g., amusement, hobby, leisure, etc...)
- Hospitality
- Loans
- Forbearance – forgiveness of a debt owed when due
- Transportation
- Training
- Lodging



Rule of Thumb: Any item having monetary value is a gift, unless it is excluded from the definition of gift. (When in doubt, call you servicing ethics advisor.)

- Exclusions:
- Modest items of food and refreshments, i.e., soft drinks, coffee, donuts etc...
- Greeting cards, items of little intrinsic value (plaques, trophies...) (“*Dust Collectors*”)
- Loans from banks and other institutions; opportunities and benefits; ***rewards and prizes; and random drawings*** (generally open to the public) [Condition? Fee? Is it not open to the public?]
(See slides 42-44 for more information)
- Anything for which market value is paid by the employee.

Alcohol. Does it fit within the exclusion as modest item of food?

No.

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FWS Manager, has worked extensively with P & P Trails, Inc., [a FWS partner] developing plans to construct a foot bridge at a local refuge area. FWS Manager has to attend a meeting outside of her local commuting area to examine the plans. P&P offers FWS manager a \$25.00 VISA gift card to assist with gas. What should the manager do?



1. Give the card to a family member or close friend.

Wrong

2. Return the card.

Correct

3. Keep the card...it's a "tip" for a job well done.

Wrong

4. Return the card and ride with FWS Partner.
(The value of the ride is \$22.50.)

Wrong

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1. Give the card to a family member or close friend.

Giving it to a family member or close friend (by recommendation) does not resolve indirect acceptance. **[It was not appropriate to accept in the first instance, so designating it for someone is not appropriate-even to a charity since it's over the \$20 limit.]**

2. Return the card.

The “\$20 or less” rule cannot be used to accept cash, cash equivalents, or investment interests , i.e., stocks, bonds, or CDs. **This is the best answer.** [An employee can accept an **unsolicited** gift valued at \$20 or less, per source, per occasion provided the total value of all items received from that source does not exceed \$50 in a calendar year.]

3. Keep the card as “tip.”

You may not accept compensation or anything of value (tip, gratuity, etc...) from a prohibited source (partner) for doing or not doing your job. (18 U.S.C. § 209)

4. Return the card and ride with the FWS Partner.

The value of the ride is \$22.50, so it's over the gift limit. [Don't take the ride unless you have some authority in place.] Consider the following

Possible Options:

- 31 U.S.C. 1353 (Non-Federal Travel Assistance) (Requires Ethics Approval) **(This cannot be used in the employee's local commuting area.)**
- Secretary's/Bureau Gift Acceptance Authority
 - Donations Lead (See 374 DM 6)
- Explore whether the partnership agreement contains transportation provisions.

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Before we depart, let's visit about riding with a contractor...

May an agency employee accept ground transportation from a contractor or contractor employee?

Depends!!!!

Per Office of Government Ethics:

- Determine if the transportation is duty related. [This would not permit commuting to and from the job.]
- If the transportation is provided in connection with the performance of the employee's official duties, it would not be a gift to the employee personally, but a service provided to the agency.
- Such benefits have to be analyzed under fiscal law principles, not OGE ethics rules. (This requires input from the Appropriations.) (See DAEOgram DO-06-023)



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No ethics rule or exception permits an employee to:

- ❑ Accept a gift in return from being influenced in the performance of an official act. (See next slide.) **Remember:** A gift does not have to be money, it's anything of value.
- ❑ Ask for or coerce the offering of a gift.
- ❑ Accept gifts from the same or different sources on a basis so frequently that a reasonable person would be led to believe the employee is using his/her public office for private gain.



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You may not accept **directly** or **indirectly**, a gift (anything of value) for officially taking action or failing to take action. (See 18 U.S.C. § 201) (Hint: This is bribe.) (Actual Case)

Collins was a Housing Specialist employed by the US Army. He served as COR and Budget Officer. He worked with various vendors, landlords, and contractors. He submitted an inflated housing lease to the U.S. and split the additional money (\$23,100) with one of the landlords. He asked for an additional \$8400 from the same landlord in exchange for preferential treatment in connection with another contract.



He pleaded guilty to one count of bribery (18 USC 201) and one count of illegal supplementation of salary (18 USC 209).

- Sentenced to 42 months of prison
- 3 years probation
- Forfeit \$5775
- Fined \$1725

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The Office of the Inspector General has found numerous instances of employees accepting things inappropriately from entities with whom DOI engages in business. For example....



Sporting events,
plays, movies etc...



Lunch Swaps



Trips, excursions, etc...



Spa Packages...

Even though acceptance of a gift may be permitted, it is never inappropriate and frequently prudent for an employee to decline a gift offered by a prohibited source or because of his official position. [See 5 CFR 2635.204]. Before I forget...what's a prohibited source? 5 CFR 2635.203(d)(1-5) (See next slide)

Ethics Speak - Don't Make Assumptions

Don't assume that because an item being offered is not cash, it's not problematic. Unless its specifically excluded from the definition of gift, the item(s) should probably be treated as a gift unless an exception applies.

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What's a prohibited source? 5 C.F.R. § 2635.203(d)

d) *Prohibited source* means any person who:

- (1) Is seeking official action by the employee's agency;
- (2) Does business or seeks to do business with the employee's agency;
- (3) Conducts activities regulated by the employee's agency;
- (4) Has interests that may be substantially affected by performance or nonperformance of the employee's official duties; or
- (5) Is an organization a majority of whose members are described in paragraphs (d) (1) through (4) of this section.

What is meant by person? (5 C.F.R. 2635.102(k))

Person means an individual, corporation and subsidiaries it controls, company, association, firm, partnership, society, joint stock company, or any other organization or institution, including any officer, employee, or agent of such person or entity. For purposes of this part, a corporation will be deemed to control a subsidiary if it owns 50 percent or more of the subsidiary's voting securities. The term is all-inclusive and applies to commercial ventures and nonprofit organizations as well as to foreign, State, and local governments, including the Government of the District of Columbia. It does not include any agency or other entity of the Federal Government or any officer or employee thereof when acting in his official capacity on behalf of that agency or entity.



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What's next...?

Misuse of Position

Inducement/Coercion

Endorsement

Appearance of Government Sanction

Can I go overboard in
garnering support for a
partner?



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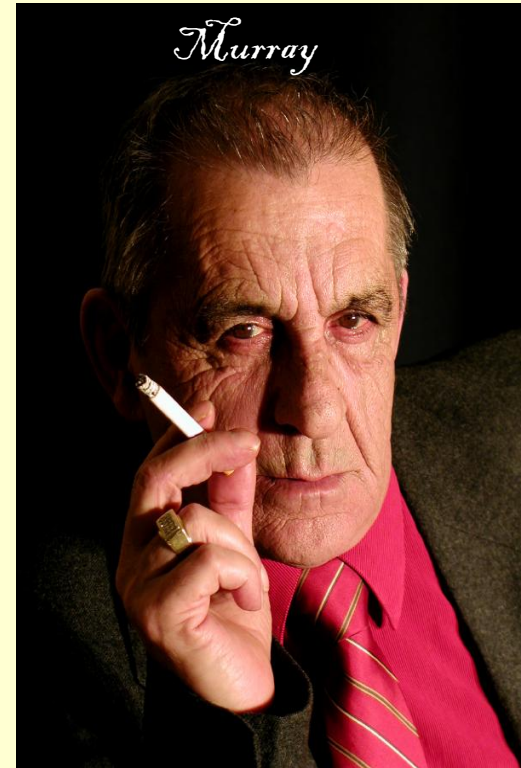
Misuse of Position - Inducement or Coercion:

An employee shall not use or permit the use of his/her Government position, title or authority in a manner intended to coerce or induce another person, including a subordinate, to provide a benefit to himself or to another. [5 C.F.R. § 2635.702(a)]

Example 1.

Murray, NPS Manager, distributed an all-employee e-mail to his subordinates. It read, “I **STRONGLY** encourage you to consider membership in the Forester’s Group. NPS has a **very strong** allegiance to the Group, as one of our long-time partners. I work on the membership committee and I have pledged to boost the Group’s numbers. “

Signed,
Murray NPS Manager



[Your thoughts? (1 minute)]

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Misuse of Position

Employees may not use or permit the use of their Government position, title or authority to endorse any product, service or enterprise, unless there is statutory authority.

(Endorsement, 5 C.F.R. 2635.702(c))

Johnetta, BLM Manager, has granted LiQuity, long-time BLM partner, the use of the BLM logo for an upcoming conference. Any concerns?



Disclaimer. *LiQuity's use of the BLM Logo does not constitute an actual or an implied official endorsement or an official sanction by the BLM, the Department of the Interior or the Federal government of LiQuity's products, services or enterprises or that of any of its components.*

Public Affairs. Internal protocols regarding the use of the bureau labels?

Office of the Solicitor/General Counsel. Internal protocols regarding the use of the bureau labels?

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Misuse of Position

Employees may not use or permit the use of their Government position, title or authority to endorse any product, service or enterprise, unless there is statutory authority.

(Endorsement, 5 C.F.R. 2635.702(c))

Can I draft a letter of recommendation for a partner competing for a grant?

Depends

Considerations:

Is the bureau a stakeholder? [What is the benefit to the bureau?]

Is the letter being submitted to a Federal agency? [Don't write the letter, unless you have statutory/regulatory authority or an exception applies.]

Is the letter being submitted to a non-Federal entity, e.g., state, college, etc...?

*Does the Federal agency/bureau stand to gain \$\$ from writing the letter?

Yes? The letter should be fact-based. Avoid flowery language.

Fact-based: *Partner complied with the terms of the grant.*

Flowery: *I highly recommend, wholeheartedly support, etc... I would hope...*

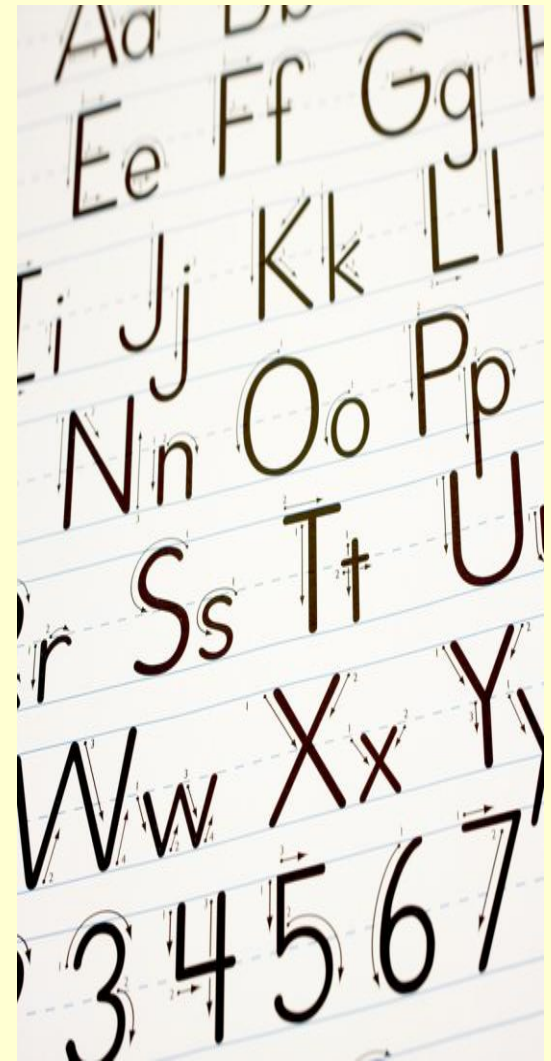


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5 C.F.R. 2635.702 (b) - Appearance of Governmental Sanction

(b) *Appearance of governmental sanction.* Except as otherwise provided in this part, an employee shall not use or permit the use of his Government position or title or any authority associated with his public office in a manner that could reasonably be construed to imply that his agency or the Government sanctions or endorses his personal activities or those of another. When teaching, speaking, or writing in a personal capacity, he may refer to his official title or position only as permitted by §2635.807(b). He may sign a letter of recommendation using his official title only in response to a request for an employment recommendation or character reference based upon personal knowledge of the ability or character of an individual with whom he has dealt in the course of Federal employment or whom he is recommending for Federal employment.

Example 1: An employee of the Department of the Treasury who is asked to provide a letter of recommendation for a former subordinate on his staff may provide the recommendation using official stationery and may sign the letter using his official title. If, however, the request is for the recommendation of a personal friend with whom he has not dealt in the Government, the employee should not use official stationery or sign the letter of recommendation using his official title, unless the recommendation is for Federal employment. In writing the letter of recommendation for his personal friend, it may be appropriate for the employee to refer to his official position in the body of the letter.



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Conflict of Interest

You may not participate personally and substantially in your official capacity in any **particular matter** in which you have a **direct** or an **imputed** financial interest.

Particular Matter

Matters that involve deliberation, decision, or action that effects a specific party(ies), like judicial proceedings, applications, grants, agreements, contracts, determinations, etc...

Imputed Interest

A financial interest that is treated as the employee's own interest, e.g., spouse, minor child, an entity where the employee serves as officer, director, trustee, general partner, or employee, or one that he is negotiating for or has an arrangement for current/future non-Federal employment.



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Example: Sally Mae Kingston, BLM manager, serves on the board of Rabbits Plus, a BLM partner, that restores rabbit habitats. (She serves in her personal capacity.) She has been given the task of reviewing 18 proposals, which includes one from Rabbits Plus. **Can she review the proposals?**



Ethics Speak : You do not have to be final decision maker to commit a conflict of interest violation.

1. Does Sally have a direct interest or an imputed interest?

Imputed. The interests of Rabbits Plus are treated as her interests.

2. Are the proposals particular matters?

Yes. Particular matters involve deliberation, decision, or action that effects a specific party or parties.

3. Is Sally participating personally and substantially (*of significance to the matter*) in the matter?

Yes. She is taking official action, i.e., ranking proposals that impact all submitters.

4. If Sally gives the assignment of ranking the proposals to a subordinate, does she remove the conflict of interest issue?

No. Conflict of interest rules dictate that the supervision of subordinate over a matter that the manager should disqualify from is still a conflict of interest. *It is still treated as personal and substantial participation in the matter.*

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Are you interested in serving on a board in your official capacity at the DOI? Yes?

If you are interested in serving on the board of a non-Federal organization in your official capacity, you must have 3 things in place before service can begin-

[BLM Conflict of Interest Waiver Form \(1 of 3\)*](#)

No employee may serve on the board of a non-Federal organization in his or her official capacity without statutory authority or a waiver. This form creates an exception to the conflict of interest rules.

***Note: Links will only work if you are using a BLM computer.**

[MOU between the BLM and an Outside Organization \(2 of 3\)*](#)

In addition to executing the BLM Conflict of Interest Waiver, each employee who seeks to serve in his or her official capacity, must execute this MOU (agreement). It recognizes the employee's role in the BLM and the outside organization.

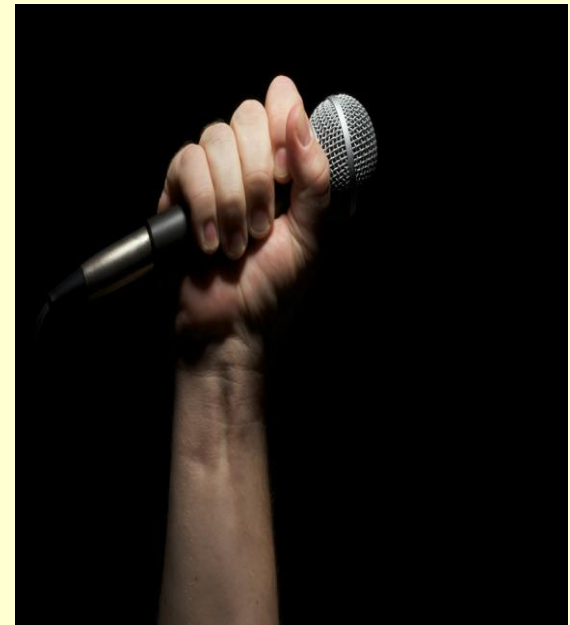
[Recusal Letter \(3 of 3\)*](#)

In addition to the Conflict of Interest Waiver, the MOU between the BLM and an Outside Organization, this Recusal Letter outlines the rules imposed on an employee who serves on the board of non-Federal organization while in official status.

Service on Boards - Liaison Official Capacity (Department of the Interior)

[Liaison Designation Form*](#)

In instances where the agency deems it appropriate for you to serve on the board of non-Federal organization in your official capacity as an "ex officio" member, this Liaison Designation Form must be completed.



The image shows a weathered, light-colored wall with two arched blue doors. The wall has a rough, textured appearance with some peeling paint and small holes. The ground in front of the doors is made of cobblestones. The text 'During Government Service' is written on the left door, and 'After Government Service' is written on the right door. The overall scene suggests a transition or a comparison between two states of being.

During
Government
Service

After
Government
Service

Post- Employment

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Post-Employment Lifetime Ban – 18 U.S.C. 207(a)(1)- Look at the details.

Prohibits all former Government employees from knowingly making, with the intent to influence, any **communication** to or appearance before a Government employee on behalf of another person (except the U.S.) in connection with a particular matter involving specific party(ies) when the employee was (1) personally and substantially involved in the matter as Government employee, and (2) the U.S. is a party or has a direct and substantial interest in the matter.

Fact Pattern

Dina, a former FWS employee makes a brief telephone call to a colleague in her former office on behalf of one of her clients concerning an ongoing investigation. Has she made a communication?

a. Yes. b. No. c. Maybe.

a. Yes. A former employee makes a communication when she imparts or transmits information of any kind (facts, opinions, ideas, etc...) or asks questions orally or in writing, on behalf of another to an employee of the United States.



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Post-Employment [Lifetime Ban - 18 U.S.C. 207(a)(1)- Look at the details]

Prohibits all former Government employees from knowingly making, with the intent to influence, any communication to or **appearance** before a Government employee on behalf of another person (except the U.S.) in connection with a particular matter involving specific party(ies) when the employee was (1) personally and substantially involved in the matter as Government employee, and (2) the U.S. is a party or has a direct and substantial interest in the matter.

Fact Pattern

Claude is former NPS analyst. He accompanies one of NPS's partner to a meeting with NPS personnel. He does not say anything at the meeting. Has he made an appearance?

a. Yes. b. No. c. Maybe.



a. Even if the former employee says nothing, he has made an appearance- depending on the circumstances, intent to influence may or may not be present.

An employee makes an appearance when he is physically present before a U.S. Government employee in either a formal or informal setting.

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Post-Employment [Lifetime Ban - 18 U.S.C. 207(a)(1)- Look at the details]

Prohibits all former Government employees from knowingly making, with the intent to influence, any **communication** to or **appearance** before a Government employee on behalf of another person (except the U.S.) in connection with a particular matter involving specific party(ies) when the employee was (1) personally and substantially involved in the matter as Government employee, and (2) the U.S. is a party or has a direct and substantial interest in the matter.

Fact Pattern

Former BLM Manager attended a Water Conservation Society meeting held at a local hotel- 300 people were in attendance. For 45 minutes, she berated the BLM for its water conservation practices in Utah. When she said that he had formerly worked for the BLM, everyone paid attention and started texting local news outlets. Has she crossed the line?

a. Yes. b. No. c. Maybe.

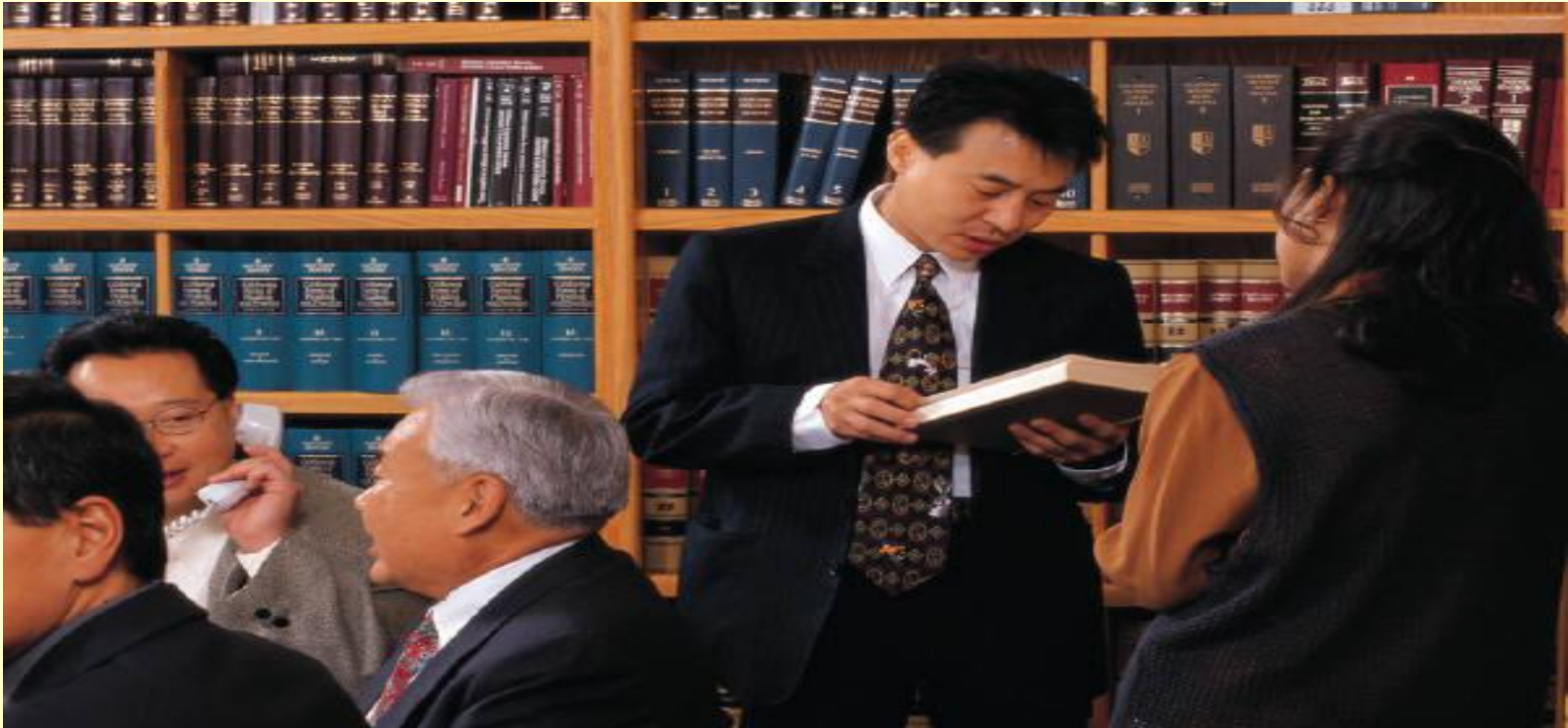
b. No.

A former employee who addresses a public forum does not violate communication/appearance rules if the forum:

1. Is not sponsored or cosponsored by Federal Government;
2. Is attended by a large number of people; and
3. A significant portion of those in attendance are not employees of the US



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Representing Partners...Before Federal Officials (Don't Do It!)

18 U.S.C. 205

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18 U.S.C. § 205 Employees may not **represent** another before a Federal court or Federal agency in a particular matter in which the U.S. is a party or has an interest. Represent-knowingly making, with the intent to influence, any communication (oral or written) to or appearance before any officer or employee of a Federal agency.

A few months ago (Forest Service) Larry, BLM Specialist, planned a meeting with Bill, a BLM permittee, concerning the utilization and physiology of shrubs in an allotment. It appears that Bill has been overusing the land. When Larry arrived at the meeting site, Bill was accompanied by Sue. She represented Bill at the meeting. Sue argued Bill's position tooth and nail. [Sue is Forest Service employee.] Has Sue crossed the line? **Discuss.**

Yes. Sue represented another (Bill) before a Federal employee on a particular matter (permit) in which the U.S. (BLM) had an interest.

Do you think it makes a difference that Sue never identified herself a Forest Service employee?

No. It does not make a difference-even in the absence of invoking your official title, position, or status as a Federal employee.

18 U.S.C. 205 - **exceptions** on
the next slide



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More on 18 U.S.C. § 205. [This statute does not apply to:]

- To unpaid representation of one subject to disciplinary, loyalty, or other personnel administrative proceedings
- To representation of immediate family members in matters not under your official responsibility, or in which you have not “participated personally and substantially.”
- To representation in connection with the proper discharge of duties
- To unpaid representation of non-profit organizations comprised mostly of Federal employees, spouse and their dependent children, e.g., employee recreation association
- To representation of one’s self
- Absent an element of control or agency relationship



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http://www.usoge.gov/ethics_guidance/opinions/advop_files/1988/88x6.txt

Note: “***Nonetheless, section 205 is a general intent proscription not requiring proof of specific intent, willfulness, or a knowing and corrupt intent.”

18 U.S.C. § 203 Employees may not accept or solicit compensation (directly or indirectly) for representational activities in relation to a particular matter in which the Government is involved or has an interest.



Supplemental Regulations

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DOI Supplemental Standards: BLM Specific ... Contrasts.

BLM

BLM employees are not permitted to work as real estate agents during their BLM tenure. (This restriction does not apply to spouses.)

FWS

This restriction does not apply to FWS employees.

NPS

This restriction does not apply to NPS employees.

BLM

BLM employees may not have a financial interest in any concern (business, corporation, etc... that has leases, rights-of-way, etc... on Federal lands.

FWS

This restriction does not apply to FWS employees.

NPS

This restriction does not apply to NPS employees.



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Lobbying

18 U.S.C. § 1913

Prohibits Federal employees from using appropriated funds (e.g., on official time, in official capacity, or using Government resources) to engage in grass-roots lobbying activity to pressure Congress regarding legislation.

Grass roots lobbying includes using appropriated funds to pay for personal services, telegrams, advertisements, telephones, letters, printed/written or other devices intended to influence a Member of Congress.



“prevents government employees from engaging in
“substantial ‘grass roots’ lobbying campaigns ...
expressly urging individuals to contact government
officials in support of or opposition to legislation ...
Provid[ing] administrative support for lobbying
activities of private organizations”

<http://biggovernment.com/spakovskyberke/2009/10/08/politicizing-the-arts-community-what-did-the-white-house-do-wrong/#more-14446>

Ethics Speak

1. Do you homework on the organization (partner). Does it have a lobbying/advocacy component?
2. Has the organization asked for information that is non-public?
3. Have you dialogued with the External Affairs or the Communication Directorate to be sure the information is appropriate to share?

Note: BLM has internal protocols that must be adhered to. “Don’t be naïve.”

Questions about lobbying need to be referred to SOL.

BLM Ethics Office

Bureau of Land Management

Markci D. Metcalf

Deputy Ethics Counselor

Markci_Metcalf@blm.gov

Phone: 202.912.7486

Facsimile: 202.912.7172

National Park Service

Acting

Deputy Ethics Counselor

Phone: 202.354.1981

Facsimile: 202.354.5695

U.S. Forest Service

Lorraine (Rainee) Luciano

Lorraine.Luciano@dm.usda.gov

Phone: 703.605.0858

Fax: 703.605.5105

U.S. Fish and Wildlife Service

Anne Badgley

Deputy Ethics Counselor

Anne_Badgley@fws.gov

Phone: 503.326.2008

Facsimile: 503.326.2494

DOI - Departmental Ethics Office

Melinda Loftin

Designated Agency Ethics Official

Phone: 202.208.7960

Facsimile: 202.208.5515

U.S. Department of Agriculture

Stuart A. Bender

stuart.bender@dm.usda.gov

Phone: 202.720.2251

Facsimile 202.690.2642.

The slides that follow are follow-ups to discussions...

BLM Ethics Office

Social Invitations

Have you received an invitation from a partner and you are unsure if it's appropriate to attend? Talk to your Servicing Ethics Advisor about WAG.

(g) Widely attended gatherings and other events—(1) Speaking and similar engagements.

When an employee is assigned to participate as a speaker or panel participant or otherwise to present information on behalf of the agency at a conference or other event, his acceptance of an offer of free attendance at the event on the day of his presentation is permissible when provided by the sponsor of the event. The employee's participation in the event on that day is viewed as a customary and necessary part of his performance of the assignment and does not involve a gift to him or to the agency.

(2) Widely attended gatherings. When there has been a determination that his attendance is in the interest of the agency because it will further agency programs and operations, an employee may accept an unsolicited gift of free attendance at all or appropriate parts of a widely attended gathering of mutual interest to a number of parties from the sponsor of the event ;

Or, if more than 100 persons are expected to attend the event and the gift of free attendance has a market value of \$350 or less, from a person other than the sponsor of the event. A gathering is widely attended if it is expected that a large number of persons will attend and that persons with a diversity of views or interests will be present, for example, if it is open to members from throughout the interested industry or profession or if those in attendance represent a range of persons interested in a given matter. For employees subject to a leave system, attendance at the event shall be on the employee's own time or, if authorized by the employee's agency, on excused absence pursuant to applicable guidelines for granting such absence, or otherwise without charge to the employee's leave account.



BLM Ethics Office

Rewards and Prizes

Excerpt: “In order for a contest to qualify under this gift exclusion, the first condition is that the contest must be open to the general public. * * *

Two examples where openness to the public may typically be an issue are contests entered by an employee while officially attending a conference or trade show and contests that occur in connection with official travel.”

See the Office of Government Ethics Opinion at:

<http://www.oge.gov/DisplayTemplates/ModelSub.aspx?id=1841>



BLM Ethics Office

Can I accept a discount on my Verizon cell phone?

Yes. See 5 CFR § 2635.203(b)(4)

(4) Opportunities and benefits, including favorable rates and commercial discounts, available to the public or to a class consisting of all Government employees or all uniformed military personnel, whether or not restricted on the basis of geographic considerations.



BLM Ethics Office

A Transfer of Federal Funds....

Per the General Accountability Office:

- Once appropriated funds are transferred to a non-Federal entity, so long as the non-Federal entity receives the funds through appropriate legislation (statute/regulation);
- Within the time-frame as noted in the legislation;
- And in accord with the purpose of the language in the legislation...the funds are no longer treated as Federal. **[Note: The Federal Government may still retain some oversight regarding the use of the appropriated funds, to ensure that they are used in accordance with the legislation.]**

